IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

COMPANY APPLICATION NO.440 OF 2005
IN
COMPANY PETITION NO.989 OF 2002

Sajjad Husain Ramzanali Merchant	Petitioner
vs.	
Maharashtra Agritech Ltd. Co.	Respondent-Company.
And	
Masuma wd/o.Sajjad Husain Merchant	Applicants

Ms.Jagmag i/b.Ms.J.P.Thakkar for the applicant.

Mr.R.A.Shaikh for the respondent.

CORAM : A.M. KHANWILKAR,J.

DATED : 9th September 2005

P.C.

This application is opposed on behalf of the respondent-company on two counts. The first objection is that unless certificate is obtained by the applicants authorising them to pursue the proceedings having represented as required by Section 214 of the Indian Succession Act, this application cannot be granted. I find no substance in this petition. The present application is simpliciter for permitting the applicants to be brought on record to represent the estate of the original petitioner who has since expired. The present proceedings is company petition pending in this Court. The question of proof of representative tile is a condition precedent to recover through Court's debts

from letters of deceased persons. That is not the remedy invoked by the original petitioner, but is only for order that the respondent company be wound up as the company is unable to pay its debts. Accordingly, section 214 of the Indian Succession Act has no application to the facts and circumstances of the present case.

2. It is then contended that under the consent terms, the respondent company was obliged to pay the amount on or before 30.4.2004. As that condition was not complied, the petition stood admitted.

3. The original-petitioner however had expired on 23.3.2005, without taking any steps since 1st May 2004 to advertise admission of the company petition. Even this objection, in my opinion is of no consequence. The fact remains that Company Petition has been admitted on account of conditional order dated 3.9.2003 which is passed in terms of consent terms. The applicants are none other than the son and widow of the original petitioner. The fact that the original petitioner had not advertised the admission of petition cannot preclude the applicants to represent the estate of the original petitioner. Viewed in this perspective, there is no substance in the objection taken in respect of the

relief claimed in this application. In my opinion, this application should succeed in terms of prayer (a). Applicants shall carry out amendment within six weeks from today and proceed to take necessary steps for advertisement and publication.

4. Mr.R.A.Shaikh, advocate waives service on behalf of the respondent-company in the Company Petition.

(A.M. KHANWILKAR,J.)